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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,384	04/06/2005	Frank Neumann	HH 304-KFM	4881
10037	7590	05/28/2008		
MILDE & HOFFBERG, LLP 10 BANK STREET SUITE 460 WHITE PLAINS, NY 10606			EXAMINER NDUBIZU, CHUKA CLEMENT	
			ART UNIT 3749	PAPER NUMBER
			MAIL DATE 05/28/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/530,384	<b>Applicant(s)</b> NEUMANN ET AL.	
	<b>Examiner</b> CHUKA C. NDUBIZU	<b>Art Unit</b> 3749	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on through February 29 2008 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1-3, 4 9, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deakin 5,167,218. Deakin teaches the invention as claimed (see figs.

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2-11) a solar collector comprising, a sheet metal panel (20, 27+26 (fig 6)), a register-shaped arrangement (Fig 4) of capillary tubes (16, 57 in fig 11) separated from one another at a distance for the flow of a fluid medium (column 7 line 30-33), that lies on the side opposite the side of the sheet metal panel (17, 20) to be irradiated (column 2 line 44,45), a thermally insulating insulation core (11) that is also positioned on the opposite side; wherein the capillary tubes of the register-shaped arrangement are placed in contact with the surface (18 is in contact with insulation in the embodiment of fig 4) of the thermally insulating insulation core, the insulating insulation core is bonded to the sheet metal panel (column 5 line 49-52) by means of an elastic adhesive layer (21, 23) (epoxy is elastic (column 4 line 12-14)) ; whereby the capillary tubes are at least partially embedded into the adhesive layer 21 between the sheet metal panel 20 and the insulation core (11 see fig 5); (claim 3) wherein the surface of the insulation core is flat, and that the capillary tubes are laid directly onto the flat surface (column 7 line 29, see fig 3); (claim 4) wherein the insulation core comprises foam (column 4 line 67); (claim 9) wherein the slots (18, 25) possess a partially-round, cross-section (figs 4 and 5); (claim 10) wherein the capillary tubes consist of metal (aluminum and copper (column 3 line 56, 57)); (claim 16) wherein the side of the insulation core facing away from the sheet metal panel is supported by a plate-shaped stiffening element 4; (part of claim 2) wherein each of the capillary tubes of the register-shaped arrangement is placed into a slot (25 in fig 5) in the insulation core (11), whereby the capillary tubes extend above the insulation core by some amount; (part of claims 17 and 18) wherein

the insulation core is partially surrounded by a cassette 4 which includes two opposing margins (side of 4 see fig 4) angled outwards.

With regard to the recitation in claim 2 “capillary tube extends by an amount, which essentially corresponds to the thickness dimension of a fluid adhesive layer before hardening”, this limitation is regarded as a design choice since the applicant does not disclose any criticality for limiting the amount the tube should extend. In Deakin’s invention the tubes extend enough such that the adhesive can hold the plate and the collector is functional.

1. Claims 7, 8, 11, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deakin in view of Bloor et al 4,606,327. Dearkin teaches the invention as claimed and as discussed above. Deakin also teaches a solar collector wherein the adhesive layer comprises, sodium silicate and aluminum oxide (column 4 line 51,52) and these will have a higher thermal-conductivity coefficient than the material of the insulation foam (column 4 line 67).

However, Deakin does not teach a solar collector wherein the surface of the insulation includes numerous recesses to receive the adhesive; wherein the recesses extend essentially to the slot depth or extend slightly past it.

Bloor discloses a solar collector (fig 1) wherein the surface of the tiles (11) (insulation) includes numerous recesses 14; wherein the recesses extend slightly past the depth of the slot 15.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Deakin's solar collector by including all the limitations taught by Bloor and recited above in order to provide a solar collector that would be quickly mounted on roof tops with little damage to the roof as taught by Bloor (column 1 line 28-30).

With regard to claim 8, Deakin discloses the use of polyester resin and not specifically methacrylate. Methacrylate is a polyester resin and the selection of methacrylate is an obvious engineering choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960. MPEP 2144.07).

With regard to claim 13, forming the recesses by pressure of a bristle roller is an obvious design choice of how to make the recesses. The Applicant does not disclose any significance of using bristle rollers.

2. Claims 14, 15, 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deakin in view of Graham 4,517,721. Deakin teaches the invention as claimed and as discussed above. Deakin also teaches a solar collector wherein the insulation core (11) is partially surrounded by a plastic or metal cassette 4; (column 5 line 4, 5). However, Deakin does not teach a solar collector wherein the capillary tube extends by an amount, which essentially corresponds to the thickness dimension of a fluid adhesive layer before hardening; wherein the sheet metal panel is of one piece with two opposing angled edge profiles to connect the sheet metal panels to one another in a folded technique; wherein an elastic body is positioned between the angled margin; wherein the elastic body is a foam strip.

Graham discloses a solar heat exchanger (fig 1-7), comprising a one-piece sheet metal plate 10 with two opposing angled edge profiles (see fig 7); wherein an elastic body 13 is positioned between the angled margin; wherein the elastic body 13 is a foam strip (rubber).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Deakin's solar collector by including all the limitations taught by Graham and recited above in order to provide a solar heat exchanger that can be manufactured economically as taught by Graham (column 1 line 25)

With regard the recitations in claim 15 "to connect the sheet metal panels to one another in a folded technique" in claim 15 and "to receive the adhesive" in claim 11, these are regarded as statements of intended use. *In re Otto*, 312 F.2d 937, 938 136 UPSQ 458, 459 (CCPA 1963). MPEP 2111.02 II.

3. Claims 5, 6 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deakin in view of Hyman 4,191,169. Deakin teaches the invention as claimed and as discussed above. Deakin also discloses a sheet metal plate made of aluminum (column 3 lines 54, 55). However, Deakin does not teach a solar collector wherein the sheet metal panel consists of a titanium-zinc alloy; wherein the insulation core comprises fibrous material; wherein the insulation comprises foamed polystyrene or polyurethane; wherein the collector possesses an overall thickness, including insulation core, of between 10 mm and 50 mm or 25 mm to 35 mm; wherein the

collector module is installed in a stair step roof, whose surface consists of sheet metal panels connected to one another.

Hyman discloses a solar collector (fig 3), wherein part of the insulation core comprises fibrous material (column 4 line 13-16) and part of the core 40 comprises polystyrene; wherein the insulator thickness is of the order of 3 inches (75 mm) (column 4 line 18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Deakin's solar collector by including the limitations taught by Hyman and recited above in order to provide a solar collector unit that is rigid and lightweight as taught by Hyman (column 4 lines 39-41).

With regard to claims 21 and 23 the overall thickness of the module being in the range of 10-50 mm or 25-35 mm, this is deemed an optimization within prior art conditions. Hyman discloses insulation thickness of about 75 mm (by way of example) and since the metal absorber is very thin (order of 0.1 mm (Deakin, column 3 line 56)) the overall thickness of the collector is of the order of 75 mm. 50 mm is of the order of 75 mm. Therefore, the limitation that the thickness be between 10 and 50 mm or between 25 mm and 35 mm is within the general range of 75 mm. "where the general condition of a claim is disclosed in prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955) MPEP 2144.05 II A.

With regard to claim 20, the sheet metal being made of titanium-zinc alloy, this is deemed an engineering design choice since the applicant does not disclose the need

for using titanium-zinc alloy, which other materials cannot meet. Deakin discloses the use of a sheet metal plate made of aluminum (column 3 lines 54, 55).

With regard to claim 22 the collector module being installed in a stair step roof, whose surface consists of sheet metal panels connected to one another, this is a statement of intended use, which has not introduced any additional limitations on the structure of the collector. *In re Otto*, 312 F.2d 937, 938 136 UPSQ 458, 459 (CCPA 1963). MPEP 2111.02 II.

### ***Response to Arguments***

Applicant's arguments filed on February 1 2008 have been fully considered but they are not persuasive. Applicant's argument traversing the rejection of claim 1 on the grounds that prior art does not disclose self-supporting metal sheet has been considered but it is moot because the new claim 1 does not recite "self supporting sheet metal panel".

With regard to the non-metallic elastic adhesive layer, Deakin also discloses that the insulation core is bonded to the sheet metal panel (column 5 line 49-52) by means of a layer (21, 23, fig 5) of epoxy or polyester resin (column 4 line 12-14). Epoxy is well-known non-metallic elastic adhesive.

With regard to the argument that Deakin does not teach the tubes being in contact with surface of the insulation core, Examiner notes that Deakin's design which includes a layer of molten metal spay and an adhesive before the insulation core is similar to the applicant's, where he has the tube and a layer of adhesive before the

insulation core. In deed, Deakin's design is more efficient since heat is conducted through the absorber plate to more of the tubes surface area because of the layer of molten metal that surrounds the tube. However, Deakin discloses another embodiment in fig 4 where the tube makes direct contact with the insulation core.

Having considered the amendments and arguments, Applicant's claims do not distinguish Applicant's invention over the prior art of record.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUKA C. NDUBIZU whose telephone number is (571)272-6531. The examiner can normally be reached on Monday - Friday 8.30 - 4.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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20080513

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